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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	ATTY'S DKT: OKAMOTO7
)	
OKAMOTO et al.)	
)	September 26, 2003
Appln. No.: 09/601,474)	
)	Washington, D.C.
Filed: October 17, 2000)	
)	
For: METHOD OF FORMING ...)	Attn: PETITIONS

PETITION TO VACATE HOLDING OF ABANDONMENT¹

U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petitions
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

Sir:

Applicant is in receipt on September 2, 2003, of a Notice of Abandonment, mailed August 25, 2003, which erroneously states that the application is abandoned because of applicant's failure to pay the issue fee within the time period established by the Notice of Allowance mailed April 18, 2003.

It is respectfully requested that such Notice of Abandonment be vacated as being erroneous and that the present application be reinstated.

¹ If a fee must be charged, please charge same to Deposit Account No. 02-4035, and then refund said fee as the holding of abandonment is erroneous and is entirely the fault of the PTO.

THE FACTS

Applicant timely and properly responded within the time period established by the Notice of Allowance dated April 18, 2003, by timely filing an RCE (Request for Continued Examination) on June 12, 2003.

As evidence that such Response was timely and properly filed on June 12, 2003, attached hereto is a xerographic copy of the return postcard date-stamped by the PTO Mail Room as having been timely received by the PTO on June 12, 2003.

As it appears that the RCE filed and received by the PTO on June 12, 2003, has been lost by and in the PTO, attached hereto is a duplicate copy of the RCE (entitled "Request for Continued Examination) dated June 12, 2003². However, as the fee for has already been paid, this executed copy is not to be taken as authorization to charge said extension of time fee. No further fees are required at this time.

REMARKS

In view of the above evidence, it is clear that a Reply was timely and properly filed within the time period established by the Notice of Allowance mailed on June 12,

² A copy of the IDS which was attached to the RCE filed June 12, 2003, is not being submitted. The examiner has already returned an examiner initialed copy of the substitute form 1449A/PTO which indicates that the documents have been made of record. Therefore, the undersigned believes it is not necessary to submit a duplicate copy of said IDS.

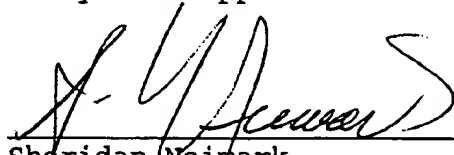
2003, and that the Notice of Abandonment has been issued in error. Indeed, the postcard by itself should be sufficient, as MPEP Section 503 states:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt of the PTO of all items listed there on the date stamped thereon by the PTO.

It accordingly requested that the Notice of Abandonment be vacated and the present application be reinstated.

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By


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